

**CENTERS FOR DISEASE CONTROL AND PREVENTION AND  
AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY**

**TRIBAL ADVISORY COMMITTEE  
CHARTER**

*December 7, 2018*

**Commented [CH1]:** Subcommittee version as of Dec 7 2018

**PURPOSE**

The purpose of the Centers for Disease Control and Prevention (CDC) and the Agency for Toxic Substances and Disease Registry (ATSDR)<sup>1</sup> Tribal Advisory Committee (TAC) is to provide a forum wherein tribal representatives and CDC/ATSDR staff exchange information about public health issues in Indian Country, identify urgent public health needs, and discuss collaborative approaches to address these issues and needs. The CDC/ATSDR TAC will support, and not supplant, any other government-to-government consultation activities that CDC/ATSDR undertakes. In addition to assisting CDC/ATSDR in the planning and coordination of tribal consultation sessions, the TAC will advise CDC/ATSDR regarding the government-to-government consultation process and will help ensure that CDC/ATSDR activities or policies that impact Indian country are brought to the attention of all tribal leaders.

**AUTHORITY**

In recognition of the unique political and legal relationship that Indian tribes have with the federal government, and pursuant to Presidential Executive Order No. 13175 (November 6, 2000) and the Presidential Memorandum of November 5, 2009, CDC/ATSDR has established a Tribal Consultation Policy for working with federally recognized tribes on a government-to-government basis. The US Department of Health and Human Services (HHS) has adopted a Tribal Consultation Policy that applies to all HHS Operating Divisions, including CDC/ATSDR. The HHS Tribal Consultation Policy directs Operating Divisions to establish a process to ensure meaningful consultation<sup>2</sup> and timely input from Indian tribes before actions are taken that will significantly affect Indian tribe(s).

The TAC Charter complies with the "Unfunded Mandates Reform Act Exemption" to the Federal Advisory Committee Act (FACA) found in Section 204 of the Unfunded Mandates Reform Act, 104-4<sup>3</sup>, and is therefore exempt from FACA, 5 U.S.C. App. 2.

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<sup>1</sup> Note: References to CDC also apply to the Agency for Toxic Substances and Disease Registry (ATSDR). The CDC Director also serves as the ATSDR Administrator.

<sup>2</sup> Tribal consultation is an open and continuous exchange of information that leads to mutual understanding and informed decision making between federal agencies and tribal governments. Tribal consultation should occur at the earliest possible point in the policy formulation process, particularly whenever decisions would significantly impact Tribes, would have a substantial compliance cost, or would result in new or changed policies.

<sup>3</sup> 2 U.S.C. § 1534 (b) provides:

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to actions in support of intergovernmental communications where—

- (1) Meetings are held exclusively between federal official and elected officers of state, local, and tribal governments (or their designated employees with authority to act on their behalf) acting in their official capacities; and
- (2) Such meetings are solely for the purposes of exchanging views, information, or advice relating to the management or implementation of federal programs established pursuant to public law that that explicitly or inherently share intergovernmental responsibilities or administration.

## **FUNCTION**

The purpose of the TAC is to identify priorities and exchange views, information, or advice regarding the management or implementation of CDC/ATSDR programs and initiatives that affect tribe(s) and American Indian and Alaska Native (AI/AN) communities, including those that arise explicitly or implicitly under statute, regulation, or Executive Order. This purpose will be accomplished through forums, meetings, and conversations between federal officials and elected tribal leaders (or their designated employees with authority to act on their behalf) acting in their official capacity.

In recognition of the sovereignty of Tribes and the government to government relationship between Tribes and the federal government and its various federal agencies and operating divisions, the TAC responsibilities include, but are not limited to, the following core functions:

1. Identify evolving issues and barriers to access, coverage, and delivery of services to AI/AN related to CDC/ATSDR programs;
2. Propose clarifications, recommendations, and solutions to address issues raised at tribal, regional, and national levels;
3. Serve as a forum for tribes and CDC/ATSDR to discuss these issues and proposals for changes to CDC/ATSDR regulations, policies, and procedures;
4. Identify priorities and provide advice on appropriate strategies for tribal consultation on issues at the tribal, regional, and/or national levels;
5. Communicate with tribes in the TAC member's area to share information on CDC/ATSDR activities, and to gather Tribal feedback on pertinent issues;
6. Provide the Tribal perspective and ensure that Tribal interests are protected as the CDC/ATSDR considers, plans, and implements agency activities; and
7. Serve as a body that can assist in coordinating and collaborating with other federal agencies, and their respective Tribal Advisory Committees.

The CDC/ATSDR TAC will support, and not supplant, any other government-to-government consultation activities that CDC/ATSDR undertakes.

## **COMMITTEE COMPOSITION**

In accordance with the "Unfunded Mandates Reform Act Exemption" to FACA found in Section 204 of the Unfunded Mandates Reform Act, P.L. 104-4, CDC/ATSDR will include only elected officers of tribal governments (or their designated employees with authority to act on their behalf) acting in their official capacities from the Indian Health Service (IHS) areas and the National At-Large Members (NALM). These TAC members will provide specific representation for the regional and national concerns of tribal governments. The TAC will consist of 17 members and will be structured to include representatives as follows: one Delegate and one Alternate delegate from each of the 12 Indian Health Service (IHS) areas, and one Delegate and one Alternate delegate for the five NALM positions.

Commented [CH2]: CDC website says 16

Commented [CH3]: CDC website says 4 NALM

### **TAC Delegate**

The area/NALM Delegate should be an elected officer of a tribal government (or their designated employee with authority to act on their behalf), acting in his or her official capacity. The area Delegate must be qualified to represent the views of the Indian tribe in the respective area from which he or she was selected.

In the event that the Delegate will not be attending a TAC meeting, the Alternate delegate will be notified by the CDC/ATSDR Associate Director of the Office of Tribal Affairs and Strategic Alliances to participate on behalf of the Delegate prior to the meeting.

### **TAC Alternate**

The TAC Alternate delegate should be an elected officer of a tribal government (or their designated employee with authority to act on their behalf), acting in his or her official capacity. The area Alternate delegate must be qualified to represent the views of the Indian tribe in the respective area from which he or she was selected. In the event that the Delegate will not be attending a TAC meeting, and the Alternate delegate is participating on behalf of the Delegate, the Alternate delegate will be given full voting rights. The Alternate delegate may attend all TAC meetings and activities but cannot participate actively unless the seat is ceded by the primary Delegate.

#### **Appointment of a One- time Designated Representative (Proxy)**

If both the Delegate and Alternate delegate are not available for a meeting, the Delegate may designate a Representative to represent the Area or At Large position for that Delegate, at the meeting in question. The Delegate must appoint the Representative by written notification to the CDC/ATSDR. In cases where a Delegate appoints a Representative because the primary Delegate cannot attend a meeting, the Representative is permitted to represent the Delegate and will have the same voting rights as the Delegate.

#### **Subcommittees**

The TAC Chair and Vice Chair, in consultation with the Designated Federal Official/Executive Secretary, have the authority to create FACA-exempt subcommittees, composed of TAC Delegates (or their Alternates), as needed, to accomplish the functions of the full TAC. Subcommittees must report back to the full TAC, and must not provide advice or work products directly to CDC/ATSDR.

#### **SELECTION PROCESS**

The process for selecting tribal Delegates for the TAC is designed to acknowledge the role of tribal governments and their elected or appointed officials with regard to consultation on policy issues. The CDC/ATSDR Associate Director of the Office of Tribal Affairs and Strategic Alliances which serves as the Designated Federal Official/Executive Secretary for the TAC, will coordinate and facilitate the TAC recruitment process. The Designated Federal Official/Executive Secretary will announce TAC vacancies and solicit nominations from federally recognized tribes. Selection will respect the sovereignty of the areas and only federally recognized tribes may nominate TAC Delegates and their Alternate delegates, submitting the names of each TAC Delegate to the Designated Federal Official by the requested deadline.

The Designated Federal Official is also responsible for ensuring the nominees meet the FACA exemption requirements and for the coordination of bringing new TAC Delegates and Alternate delegates onboard. The seated TAC membership will be fully engaged in the recruitment process. If more than one person is nominated as a Delegate or Alternate delegate for one of the regions or available NALM positions, nominees will be ranked according to the order below. The nominee with the highest level nomination will be selected (in descending order):

1. Tribal President/Chairperson/Governor
2. Tribal Vice-President/Vice-Chairperson/Lt. Governor
3. Elected or Appointed Tribal Official
4. Designated Tribal Official

In the event that there is more than one nomination for a Delegate or Alternate delegate seat, letters of support from regional and national tribal organizations will be taken into consideration.

#### **CDC/ATSDR SUPPORT**

The CDC Director/ATSDR Administrator, through the Director of the Center for State, Tribal, Local, and Territorial Support (CSTLTS), has designated the Office of Tribal Affairs and Strategic Alliances with the responsibility for implementation, coordination, and agency-wide adherence to

CDC/ATSDR and HHS Tribal Consultation Policies. Unless otherwise designated by the CDC Director, the Designated Federal Official/Executive Secretary is the Associate Director of the Office of Tribal Affairs and Strategic Alliances. The Designated Federal Official/Executive Secretary supports TAC functions and serves as a scientific and programmatic resource for the TAC.

In addition, key CDC/ATSDR managers and staff, as determined by the Designated Federal Official/Executive Secretary, shall serve as resources to the TAC by providing leadership, technical assistance, and subject matter expertise to the TAC in carrying out its duties and responsibilities. As part of these responsibilities, the Designated Federal Official/Executive Secretary will ensure that tribal access to CDC/ATSDR programs that affect tribe(s) and AI/AN communities is monitored by tracking the total resources allocated annually to serve AI/ANs and prepare an inventory of new programs and policies affecting AI/AN communities. Because the TAC is a high-level agency advisory committee, the CDC Director/ATSDR Administrator and agency senior leadership will make attendance at TAC meetings a high priority whenever possible.

**Commented [CH4]:** This may answer Byron's concern regarding tracking the resources dedicated to Tribes and AI AN people

#### **NOTICE AND PROCESS**

The Designated Federal Official/Executive Secretary shall actively engage the TAC in the creation of the agenda for all in-person and virtual TAC meetings. TAC members may wish to invite their technical assistants or subject matter experts to regular TAC calls or planning sessions.

To ensure that TAC Delegates and Alternate delegates are afforded every opportunity to meaningfully engage in the TAC and fulfill their roles as members, TAC Delegates and Alternate delegates must be consulted on the date, time and location of the TAC meetings. Once date, time and location have been finalized, TAC Delegates and Alternate delegates must be provided timely notice of the scheduled TAC meetings. Additionally, the purpose, preliminary charge, time frame, and other specific tasks of the meeting shall be clearly identified in the notice.

#### **LEADERSHIP**

##### **Chair**

TAC Delegates will elect one of their members, who must also be a tribal leader of a federally recognized tribe or NALM, as the TAC Chair. The Chair will serve for one calendar year and is eligible to be elected Chair for the second year of his or her two-year term on the TAC. The Delegate chosen to be Chair is also eligible to be considered again for Chair if he or she were to serve additional two-year terms on the TAC, without limitation, as long as he or she remains a TAC member.

**Commented [CH5]:** This would exclude a TAC Delegate who is a "designated employee with authority to act on [the tribe's] behalf"

##### **Vice-Chair**

TAC Delegates will elect one of their members, who must also be a tribal leader of a federally recognized tribe or NALM, as the TAC Vice-Chair. The Vice-Chair will serve for one calendar year, and is eligible to be elected Vice-Chair for the second year of his or her two-year term on the TAC. The Delegate chosen to be Vice-Chair is also eligible to be considered again for Vice-Chair if he or she were to serve additional two-year terms on the TAC, without limitation, as long as he or she remains a TAC member.

**Commented [CH6]:** Same comment as above

##### **Executive Secretary**

The Designated Federal Official/Executive Secretary serves as the lead point of contact for the TAC. In addition, he or she provides programmatic guidance, technical assistance, and administrative support. Unless otherwise designated by the CDC Director/ATSDR Administrator or Director of CSTLTS, the Designated Federal Official/Executive Secretary will be the Associate Director of the Office of Tribal Affairs and Strategic Alliance.

### Re-election

The TAC may re-elect the existing Chair and Vice-Chair for a second one-calendar-year term. The TAC will hold elections annually, at which time the seated members of the TAC may reconfirm the Chair/Vice-Chair or vote on a new Chair/Vice-Chair.

### PERIOD OF SERVICE

TAC service periods are limited to two years. A Delegate may serve an additional two-year term if nominated again when his or her term expires.

### Vacancy

When a vacancy occurs on the TAC, the Designated Federal Official/Executive Secretary will notify the following of the vacant seat to solicit nominations: federally recognized Indian tribes; tribal, regional, or national organizations; AI/AN serving organizations; and CDC/ATSDR's HHS partners (including the Secretary's Tribal Advisory Committee and relevant HHS Operating Divisions and Staff Divisions). ~~The Designated Federal Official/Executive Secretary will also solicit nominations for the vacant seat from federally recognized Indian tribes where the vacancy occurs.~~

Commented [CH7]:

### Removal

TAC Delegates must make a good faith effort to attend all meetings either in person or via teleconference. To ensure the fullest participation possible, CDC/ATSDR must provide timely notice of all meetings, both in person and teleconference. If the TAC members are not given 30 days prior notice of the in-person meetings, CDC/ATSDR shall make arrangements for TAC members to participate through teleconference. If, after CDC/ATSDR provides timely notice, a Delegate does not participate in a meeting or teleconference on three consecutive occasions, the TAC Chair or Designated Federal Official/Executive Secretary will notify the Indian tribe(s) in the respective area and ask them to nominate a replacement. Alternate delegates are encouraged to attend all meetings, but the foregoing removal policy shall not be applied based on their participation, unless they have missed three consecutive meetings for which they agreed to represent their area or the NALM position.

### MEETINGS<sup>3</sup>

Depending on availability of funds, the TAC will convene two face-to-face meetings per fiscal year. These meetings may be held in conjunction with formal CDC/ATSDR tribal consultation sessions and may be funded in whole or in part by CDC/ATSDR. TAC conference calls will be held on a quarterly basis. Additional meetings may be scheduled depending on need and availability of funds. The Designated Federal Official/Executive Secretary will collaborate with the TAC Chair, Vice-Chair, and TAC members to develop TAC meeting agendas. The TAC Chair, Vice-Chair, and Designated Federal Official/Executive Secretary will confer, establish consensus, and finalize the agenda for each meeting. CDC/ATSDR will host one in person meeting in Atlanta, Georgia, and a tribe will host the other meeting, in accordance with HHS and CDC/ATSDR meeting policies. TAC meetings will complement, and not supplant, the tribal consultation process between CDC/ATSDR and federally recognized tribes.

<sup>3</sup> Pursuant to Section 204(b) of the Unfunded Mandates Reform Act (2 U.S.C. § 1534(b)), members of the public may be present at committee meetings (i.e., in the audience as observers), but cannot participate in discussion or business of the TAC, except during public comment periods as advertised in the Federal Register.

Commented [CH8]: This is the way the STAC charter words the ability of a technical person to speak in the meeting:

### QUORUM

A quorum with a simple majority of TAC ~~members-Delegates~~ (9 of 17, if all such positions are filled by a delegate or alternate), present in-person or by telephone, will be necessary for formal decisions and actions to be made by the TAC (informational sessions may occur in the absence of a quorum). If a Delegate cannot attend, their Alternate may represent the area or NALM position, which will be counted toward quorum. If both the Delegate and Alternate cannot attend, the

The meetings will be limited to only official representatives of the committee. Tribal delegates will be allowed to bring one-technical advisor to the meeting to assist them with their duties and responsibilities as a member of the STAC. The advisor's role is limited to assisting the member, and the advisor cannot participate in the meetings of the STAC, unless the advisor has been designated by the elected Tribal official to act on behalf of the official at the meeting.

properly authorized One- time Designated Representative may represent the area or NALM position, which will be counted toward quorum. In the event that the TAC is unable to establish a quorum for its meeting, then the TAC Chair or Vice-Chair, at his or her discretion, can arrange for polling of members via conference call or any other manner.

#### **VOTING**

The TAC will operate by consensus. When a consensus cannot be reached, the TAC will vote to resolve any differences. Each TAC member (Delegate or Alternate delegate) will be allowed only one vote. If both the Delegate and his or her Alternate participate in the same meeting or call, only the Delegate will be counted for a quorum and voting purposes.

#### **REPORTS**

The Designated Federal Official/Executive Secretary will ensure that all TAC meeting proceedings and recommendations are formally recorded and provided to the TAC through written minutes within 60 days following the TAC meeting. Once approved, the minutes will be posted online on the Tribal Support Unit's website to ensure that the information is accessible to the public. Recommended follow-up requiring federal actions and/or attention will be implemented and tracked within CDC/ATSDR and reported to the TAC at least 30 days before the next in-person TAC meeting.

#### **MEETING LOGISTICS**

TAC Delegates, in collaboration with CDC/ATSDR, will determine the place and time of TAC meetings. CDC/ATSDR will confirm dates with HHS's Office of Intergovernmental and External Affairs to avoid conflicts with the HHS Secretary's Tribal Advisory Committee meetings whenever possible. The Office of Tribal Affairs and Strategic Alliance will provide onsite meeting coordination for the annual TAC meeting and consultation meeting held at CDC.

#### **TERMINATION DATE**

This TAC Charter is in effect as long as the CDC/ATSDR Tribal Consultation Policy is in effect. The TAC Charter may be revised or amended upon approval by the TAC and final approval by the Designated Federal Official/Executive Secretary.

#### **ACRONYMS**

AI/AN	American Indian/Alaska Native
ATSDR	Agency for Toxic Substance and Disease Registry
CDC	Centers for Disease Control and Prevention
FACA	Federal Advisory Committee Act
NALM	National At-Large Member
CSTLTS	Center for State, Tribal, Local, and Territorial Support
STAC	Secretary's Tribal Advisory Committee
TAC	Tribal Advisory Committee